



COPY OF PAPERS
ORIGINALLY FILED

222.1101.CON

#61B
YC
8-22

UNITED STATES PATENT & TRADEMARK OFFICE

Examiner: L. CHANNAVAJALA

Art Unit: 1615

Re: Application of: Ronald Brown MILLER, et al.

Serial No.: 10/067,451

Filed: February 5, 2002

For: **PHARMACEUTICAL FORMULATION**

RECEIVED

JUL 25 2002

TECH CENTER 1600/2900

RESPONSE TO RESTRICTION REQUIREMENT

Assistant Commissioner for Patents
Washington, D.C. 200231

July 17, 2002

S I r:

In response to the Restriction requirement mailed June 17, 2002, Applicants respond as follows:

Remarks

In the Office Action dated June 17, 2002, the Examiner indicated that restriction to one of the following inventions is required under 35 U.S.C. § 121:

- I. Claims 1-8, 11 and 12-15, drawn to a solid, oral controlled release pharmaceutical dosage form, classified in class 424, subclass 464.
- II. Claims 9 and 10, drawn to a process of preparing a dosage form, classified in class 424, subclass 427.

The Examiner stated that "inventions II and I are related as process of making and product made... In the instant case the oral dosage form can be made by a different process, in which the active agent a polymeric matrix are simply combined and then coated with different types of polymeric materials to provide different release rates, which does not require the instant

steps of shearing to form aggregates and extruding the agglomerates to form pieces, as in group II... Further the process of making the dosage form does not require any active agent and accordingly the process can be used to make other dosage forms such as a placebo, delivered via ocular or other routes, which are not necessarily delivered by oral route."

In response to the Examiner's restriction requirement, Applicants hereby elect claims 1-8, 11 and 12-15 (Group I), drawn to a solid, oral controlled release pharmaceutical dosage form, without traverse.

Please delete claims 9 and 10 without prejudice.

CONCLUSION

It is believed that no fee is due for this Amendment. If it is determined that any fees are due, the Commissioner for Patents is hereby authorized to charge said fees to Deposit Account No. 50-0552.

An early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

DAVIDSON, DAVIDSON & KAPPEL, LLC

By: 

Robert J. Paradiso
Reg. No. 41,240

Davidson, Davidson & Kappel, LLC
485 Seventh Avenue, 14th Floor
New York, New York 10018
(212) 736 1940